IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 25TH MAY 2007 / 4TH JYAISHTA 1929

Crl.MC.No. 1570 of 2007()

CC.546/1989 of JUDL. MAGISTRATE OF FIRST CLASS COURT-II, TRIVANDRUM
CRIME NO.154/89 OF CONTONMENT POLICE STATION.

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PETITIONER: ACCUSED (A4).

BIJU MOHAN, S/O. P.KUMARAN NAIR,
AGED 39, RESIDING AT PADMA BHAVAN, EX-SERVICEMEN'S COLONY, PACHA, PALODE, THIRUVANANTHAPURAM.

BY ADV. SRI.R.T.PRADEEP
SRI.V.VIJULAL

RESPONDENTS: COMPLAINANT.

THE STATE OF KERALA,
REPRESENTED BY THE DIRECTOR GENERAL OF PROSECTUION
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JIKKU JACOB.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 25/05/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 1570 OF 2007

Dated this the 25th day of May, 2007

ORDER

The petitioner is the 4th accused in a prosecution, inter alia, under Secs.143 and 283 of the IPC. The alleged incident had taken place as early as on 29/7/1989. The petitioner was absconding and he was not available to be proceeded with. Long later, in 2006 the petitioner appeared before this Court seeking bail. Bail was granted. Accordingly, the petitioner has appeared before the learned Magistrate now, it is submitted.

2. The petitioner has now come to this Court with a prayer that powers under Sec.482 of the Cr.P.C. may be invoked to quash the proceedings. The crux of the allegations against the petitioner is that he along with others was a member of an unlawful assembly of persons at Trivandrum in front of the Secretariate at Statue Junction and that they

indulged in wanton acts of mischief and violence there. An effigy of the then Prime Minister was allegedly burnt by the accused persons allegedly causing obstruction to the users of the road.

3. The learned counsel for the petitioner submits that no useful purpose is likely to arise out of the prosecution. The witnesses are not likely to support. They are not likely to complain that they were obstructed. In these circumstances, it is prayed that the powers under Sec.482 of the Cr.P.C. may be invoked and the proceedings against the petitioner may be quashed.

4. I shall carefully avoid any detailed discussion about the acceptability of the allegations raised or the credibility of the data placed before the court. I must remind myself that I am called upon to exercise the extraordinary inherent jurisdiction under Sec.482 of the Cr.P.C. Such jurisdiction is not to be invoked as a matter of course. It is to be invoked sparingly and in exceptional cases and that too in aid of justice.

5. Having considered all the relevant inputs, I am satisfied that this is not a fit case where after 18 years from the date of occurrence this Court should choose to invoke its extraordinary

inherent jurisdiction to quash the proceedings. The petitioner shall be at liberty to raise all his contentions before the learned Magistrate. He can claim discharge/acquittal or dropping of proceedings under Sec.258 of the Cr.P.C. as the case may be. The dismissal of this Crl.M.C. will not in any way fetter his rights to all remedies available to him in the course of trial.

6. This Crl.M.C. is accordingly dismissed.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge